



**State Water Resources Control Board**  
Division of Drinking Water

March 8, 2018

System No. 4300964

Mr. Achaya Kelapanda  
Environmental Manager  
BFI- The Recyclery  
1601 Dixon Landing Road  
Milpitas, CA 95035


**CITATION NO. 02\_17\_18C\_008**  
**NITRATE MONITORING AND REPORTING VIOLATION FOR 2017**  
**INORGANIC MONITORING AND REPORTING VIOLATION FOR 2017**

Enclosed is a Citation issued to the public water system known as BFI-The Recyclery.

Any person who is aggrieved by a citation issued by the deputy director of the Division of Drinking Water may file a petition with the State Water Resources Control Board (State Water Board) for reconsideration of the citation. Petitions must be received by the State Water Board within 30 calendar days of the issuance of the citation. The date of issuance is the date when the Division of Drinking Water mails or serves a copy of citation, whichever occurs first. If the 30th day falls on a Saturday, Sunday, or state holiday, the petition is due the following business day. Petitions must be received by 5:00 p.m. Information regarding filing petitions may be found at: [http://www.waterboards.ca.gov/drinking\\_water/programs/petitions/index.shtml](http://www.waterboards.ca.gov/drinking_water/programs/petitions/index.shtml)

If you have any questions regarding this matter, please contact me at (510) 620-3453.

Sincerely,

  
Eric Lacy, P.E.  
District Engineer, Santa Clara District  
Division of Drinking Water  
State Water Resources Control Board

Enclosures  
Certified Mail No. 70162070000095412125  
Cc: Santa Clara County Environmental Health Department

7016 2070 0000 9541 2125

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Achaya Kelapanda  
Street and Apt. No., or PO Box No.  
1601 Dixon Landing Road  
City, State, ZIP+4®  
Milpitas CA 95035

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

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STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF DRINKING WATER

**Name of Public Water System:** BFI- The Recyclery

**Water System No:** 4300964

**Attention:** Mr. Achaya Kelapanda, Environmental Manager  
1601 Dixon Landing Road  
Milpitas, CA 95035

**Issued:** March 8, 2018

CITATION FOR NONCOMPLIANCE  
NITRATE MONITORING AND REPORTING VIOLATION  
CALIFORNIA CODE OF REGULATIONS, TITLE 22, SECTION 64432.1(a)  
INORGANIC MONITORING AND REPORTING VIOLATION  
CALIFORNIA CODE OF REGULATIONS, TITLE 22, SECTION 64432  
2017

The California Health and Safety Code (hereinafter "CHSC"), Section 116650 authorizes the State Water Resources Control Board (hereinafter "State Board") to issue a citation to a public water system when the State Board determines that the public water system has violated or is violating the California Safe Drinking Water Act (hereinafter "California SDWA"), (CHSC,



1 Division 104, Part 12, Chapter 4, commencing with Section 116270), or any  
2 regulation, standard, permit, or order issued or adopted thereunder.

3  
4 The State Board, acting by and through its Division of Drinking Water  
5 (hereinafter "Division") and the Deputy Director for the Division, hereby issues  
6 this citation pursuant to Section 116650 of the CHSC to BFI- The Recyclery  
7 (hereinafter "System") for violation of CHSC, Section 116555(a)(1), California  
8 Code of Regulations (hereinafter "CCR"), Title 22, Section 64432.1(a) and  
9 Section 64432.

10  
11 A copy of the applicable statutes and regulations are included in Appendix 1,  
12 which is attached hereto and incorporated by reference.

#### 13 14 **STATEMENT OF FACTS**

15 The System is classified as a nontransient noncommunity water system that  
16 provides domestic water from one groundwater well, Well 01, to about 80  
17 employees. CCR, Title 22, Section 64432.1(a) states that all public water  
18 systems using groundwater shall monitor for nitrate annually. The System did  
19 not monitor and report for nitrate via electronic submittal during submittal  
20 during 2017. CCR, Title 22, Section 64432 states that all public water systems  
21 using groundwater shall monitor for inorganic chemicals triennially. The  
22 System last monitored for antimony, arsenic, beryllium, cadmium, selenium,  
23 and thallium inorganic constituents in 2014 and were due for monitoring in  
24 2017. The System did not monitor and report for antimony, arsenic, beryllium,  
25 cadmium, selenium, and thallium inorganic constituents via electronic  
26 submittal during 2017.

**DETERMINATION**

The Division has determined that the BFI- The Recyclery water system failed to comply with CCR, Title 22, Section 64432.1(a) and Section 64432. Specifically, the System failed to monitor and report for nitrate, antimony, arsenic, beryllium, cadmium, selenium, and thallium from their groundwater source, Well 01. The sample must be analyzed by a certified laboratory and submitted electronically to the Division during 2017.

**DIRECTIVES**

The System is hereby directed to take the following actions:

1. Forthwith, the System shall cease and desist from failing to comply with the California Code of Regulations, Title 22, Section 64432.1(a).
2. Forthwith, the System shall cease and desist from failing to comply with the California Code of Regulations, Title 22, Section 64432.
3. The System shall complete the 2017 monitoring and reporting for nitrate, antimony, arsenic, beryllium, cadmium, selenium, and thallium from Well 01 as soon as possible. The results shall be submitted to the Division via Electronic Data Transfer (EDT) by April 10, 2018. The 2018 Nitrate monitoring will still be due before the end of 2018. The other inorganic constituents must be sampled before the end of 2020.
4. Conduct public notification (Appendix 2) for the nitrate and inorganic monitoring and reporting violation by April 7, 2018 in conformance with Section 64463.4, Chapter 15, Title 22, CCR. Notification shall be completed in accordance with the following:



- 1 a. Direct delivery to each employee and posting in a conspicuous  
2 location in the building serving the public. The notice shall  
3 remain posted for a minimum of seven calendar days.  
4

5 Proof of notification must be provided to the Division. This can be met by  
6 submitting a completed Compliance Certification Form form (Appendix 3)  
7 and a copy of the notice issued within 14 days of completing the  
8 notification. The notice must be approved by the Division prior to  
9 distribution.  
10

- 11 5. Prepare a written Corrective Action Plan (CAP) that describes the  
12 specific actions that will be taken to ensure that future nitrate and  
13 inorganic monitoring and reporting violations will not occur. This plan  
14 shall include a strategy to ensure that all monitoring is completed as  
15 required and on time and the name of the person(s) responsible for  
16 collecting samples. A back-up person must be identified, trained, and  
17 available to collect the required samples in the event designated  
18 sampler is unavailable. Submit the CAP to the Division by April 6, 2018.  
19

20 All submittals required by this Citation shall be electronically submitted to the  
21 Division at the following address. The subject line for all electronic submittals  
22 corresponding to this citation shall include the following information: Water  
23 System name and number, citation number and title of the document being  
24 submitted.

25 Mr. Eric Lacy, P.E.  
26 District Engineer, Santa Clara District  
27 Division of Drinking Water  
State Water Resources Control Board  
Dwpdist17@waterboards.ca.gov



1  
2 The State Board reserves the right to make such modifications to this Citation  
3 as it may deem necessary to protect public health and safety. Such  
4 modifications may be issued as amendments to this Citation and shall be  
5 effective upon issuance.  
6

7 Nothing in this Citation relieves the System of its obligation to meet the  
8 requirements of the California SDWA (CHSC, Division 104, Part 12, Chapter  
9 4, commencing with Section 116270), or any regulation, standard, permit or  
10 order issued or adopted thereunder.  
11

#### 12 **PARTIES BOUND**

13 This Citation shall apply to and be binding upon the System, its owners,  
14 shareholders, officers, directors, agents, employees, contractors, successors,  
15 and assignees.  
16

#### 17 **SEVERABILITY**

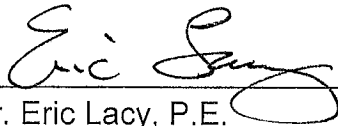
18 The directives of this Citation are severable, and the System shall comply with  
19 each and every provision thereof notwithstanding the effectiveness of any  
20 provision.  
21

#### 22 **FURTHER ENFORCEMENT ACTION**

23 The California SDWA authorizes the State Board to: issue a citation or order  
24 with assessment of administrative penalties to a public water system for  
25 violation or continued violation of the requirements of the California SDWA or  
26 any regulation, permit, standard, citation, or order issued or adopted  
27 thereunder including, but not limited to, failure to correct a violation identified  
in a citation or compliance order. The California SDWA also authorizes the  
State Board to take action to suspend or revoke a permit that has been issued



1 to a public water system if the public water system has violated applicable law  
2 or regulations or has failed to comply with an order of the State Board, and to  
3 petition the superior court to take various enforcement measures against a  
4 public water system that has failed to comply with an order of the State Board.  
5 The State Board does not waive any further enforcement action by issuance  
6 of this Citation.  
7  
8  
9

10   
11 \_\_\_\_\_

11 Mr. Eric Lacy, P.E.  
12 District Engineer, Santa Clara District  
13 Division of Drinking Water  
14 State Water Resources Control Board

10 March 8, 2018

11 Date

14 Appendices (3):

- 15 1. Applicable Statutes and Regulations
- 16 2. Public Notification Template
- 17 3. Compliance Certification Form
- 18

19 Certified Mail No. 70162070000095412125  
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26  
27



## APPENDIX 1. APPLICABLE STATUTES AND REGULATIONS FOR CITATION NO. 02\_17\_18C\_008

*NOTE: The following language is provided for the convenience of the recipient, and cannot be relied upon as the State of California's representation of the law. The published codes are the only official representation of the law. Regulations related to drinking water are in Titles 22 and 17 of the California Code of Regulations. Statutes related to drinking water are in the Health & Safety Code, the Water Code, and other codes.*

### **California Health and Safety Code (CHSC):**

#### **Section 116271 states in relevant part:**

(a) The State Water Resources Control Board succeeds to and is vested with all of the authority, duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Public Health, its predecessors, and its director for purposes of all of the following:

- (1) The Environmental Laboratory Accreditation Act (Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101).
- (2) Article 3 (commencing with Section 106875) of Chapter 4 of Part 1.
- (3) Article 1 (commencing with Section 115825) of Chapter 5 of Part 10.
- (4) This chapter and the Safe Drinking Water State Revolving Fund Law of 1997 (Chapter 4.5 (commencing with Section 116760)).
- (5) Article 2 (commencing with Section 116800), Article 3 (commencing with Section 116825), and Article 4 (commencing with Section 116875) of Chapter 5.
- (6) Chapter 7 (commencing with Section 116975).
- (7) The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code).
- (8) The Water Recycling Law (Chapter 7 (commencing with Section 13500) of Division 7 of the Water Code).
- (9) Chapter 7.3 (commencing with Section 13560) of Division 7 of the Water Code.
- (10) The California Safe Drinking Water Bond Law of 1976 (Chapter 10.5 (commencing with Section 13850) of Division 7 of the Water Code).
- (11) Wholesale Regional Water System Security and Reliability Act (Division 20.5 (commencing with Section 73500) of the Water Code).
- (12) Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Division 26.5 (commencing with Section 79500) of the Water Code).

(b) The State Water Resources Control Board shall maintain a drinking water program and carry out the duties, responsibilities, and functions described in this section. Statutory reference to "department," "state department," or "director" regarding a function transferred to the State Water Resources Control Board shall refer to the State Water Resources Control Board. This section does not impair the authority of a local health officer to enforce this chapter or a county's election not to enforce this chapter, as provided in Section 116500...

- (k)
- (1) The State Water Resources Control Board shall appoint a deputy director who reports to the executive director to oversee the issuance and enforcement of public water system permits and other duties as appropriate. The deputy director shall have public health expertise.
  - (2) The deputy director is delegated the State Water Resources Control Board's authority to provide notice, approve notice content, approve emergency notification plans, and take other action pursuant to Article 5 (commencing with Section 116450), to issue, renew, reissue, revise, amend, or deny any public water system permits pursuant to Article 7 (commencing with Section 116525), to suspend or revoke any public water system permit pursuant to Article 8 (commencing with Section 116625), and to issue citations, assess penalties, or issue orders pursuant to Article 9 (commencing with Section 116650). Decisions and actions of the deputy director taken pursuant to Article 5 (commencing with Section 116450) or Article 7 (commencing with Section 116525) are deemed decisions and actions taken, but are not subject to reconsideration, by the State Water Resources Control Board. Decisions and actions of the deputy director taken pursuant to Article 8 (commencing with Section 116625) and Article 9 (commencing with Section 116650) are deemed decisions and actions taken by the State Water Resources Control Board, but any aggrieved person may petition the State Water Resources Control Board for reconsideration of the decision or action. This subdivision is not a limitation on the State Water Resources Control Board's authority to delegate any other powers and duties.

#### **Section 116555 states in relevant part:**

(a) Any person who owns a public water system shall ensure that the system does all of the following:

- (1) Complies with primary and secondary drinking water standards.
- (2) Will not be subject to backflow under normal operating conditions.
- (3) Provides a reliable and adequate supply of pure, wholesome, healthful, and potable water.



**Section 116650 states in relevant part:**

- (a) If the state board determines that a public water system is in violation of this chapter or any regulation, permit, standard, citation, or order issued or adopted thereunder, the state board may issue a citation to the public water system. The citation shall be served upon the public water system personally or by certified mail. Service shall be deemed effective as of the date of personal service or the date of receipt of the certified mail. If a person to whom a citation is directed refuses to accept delivery of the certified mail, the date of service shall be deemed to be the date of mailing.
- (b) Each citation shall be in writing and shall describe the nature of the violation or violations, including a reference to the statutory provision, standard, order, citation, permit, or regulation alleged to have been violated.
- (c) A citation may specify a date for elimination or correction of the condition constituting the violation.
- (d) A citation may include the assessment of a penalty as specified in subdivision (e).
- (e) The state board may assess a penalty in an amount not to exceed one thousand dollars (\$1,000) per day for each day that a violation occurred, and for each day that a violation continues to occur. A separate penalty may be assessed for each violation and shall be in addition to any liability or penalty imposed under any other law.

**California Code of Regulations, Title 22 (CCR):**

**§64432. Monitoring and Compliance--Inorganic Chemicals.**

- (a) All public water systems shall monitor to determine compliance with the nitrate and nitrite MCLs in table 64431-A, pursuant to subsections (d) through (f) and Section 64432.1. All community and nontransient-noncommunity water systems shall monitor to determine compliance with the perchlorate MCL, pursuant to subsections (d), (e), and (l), and section 64432.3. All community and nontransient-noncommunity water systems shall also monitor to determine compliance with the other MCLs in table 64431-A, pursuant to subsections (b) through (n) and, for asbestos, section 64432.2. Monitoring shall be conducted in the year designated by the State Board of each compliance period beginning with the compliance period starting January 1, 1993.
- (b) (b) Unless directed otherwise by the State Board, each community and nontransient-noncommunity water system shall initiate monitoring for an inorganic chemical within six months following the effective date of the regulation establishing the MCL for the chemical and the addition of the chemical to table 64431-A.
- (c) (c) Unless more frequent monitoring is required pursuant to this Chapter, the frequency of monitoring for the inorganic chemicals listed in table 64431-A, except for asbestos, nitrate/nitrite, and perchlorate, shall be as follows: (1) Each compliance period, all community and nontransient-noncommunity systems using groundwater shall monitor once during the year designated by the State Board. The State Board will designate the year based on historical monitoring frequency and laboratory capacity. All community and nontransient-noncommunity systems using approved surface water shall monitor annually. All systems monitoring at distribution entry points which have combined surface and groundwater sources shall monitor annually. (2) Quarterly samples shall be collected and analyzed for any chemical if analyses of such samples indicate a continuous or persistent trend toward higher levels of that chemical, based on an evaluation of previous data.

**§64432.1. Monitoring and Compliance--Nitrate and Nitrite.**

- (a) To determine compliance with the MCL for nitrate in Table 64431-A, all public water systems using groundwater and transient-noncommunity systems using approved surface water shall monitor annually, and all community and nontransient-noncommunity systems using approved surface water shall monitor quarterly.

(3) For public water systems using approved surface water, the repeat monitoring frequency shall be quarterly following any one sample in which the concentration is greater than or equal to 50 percent of the MCL. After four consecutive quarterly samples are less than 50 percent of the MCL, a system may request that the State Board reduce monitoring frequency to annual sampling. A system using approved surface water shall return to quarterly monitoring if any one sample is greater than or equal to 50 percent of the MCL.

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Este informe contiene información muy importante sobre su agua potable.

Tradúzcalo o hable con alguien que lo entienda bien.

### Monitoring Requirements Not Met for BFI- The Recyclery

Our water system failed to monitor as required for drinking water standards during the past year and, therefore, was in violation of the regulations. Even though this failure was not an emergency, as our customers, you have a right to know what you should do, what happened, and what we did to correct this situation.

*We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not our drinking water meets health standards. During [compliance period dates], we [did not monitor or test] or [did not complete all monitoring or testing] for [contaminant(s)] and therefore, cannot be sure of the quality of our drinking water during that time.*

#### What should I do?

- There is nothing you need to do at this time.
- The table below lists the contaminant(s) we did not properly test for during the last year, how many samples we are required to take and how often, how many samples we took, when samples should have been taken, and the date on which follow-up samples were (or will be) taken.

Contaminant	Required Sampling Frequency	Number of Samples Taken	When All Samples Should Have Been Taken	When Samples Were or Will Be Taken
	[number] sample every [number][time interval]			

- If you have health issues concerning the consumption of this water, you may wish to consult your doctor.

**What happened? What is being done?**

[Describe corrective action].

For more information, please contact [name of contact] at [phone number] or [mailing address].

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly. You can do this by posting this public notice in a public place or distributing copies by hand or mail.*

This notice is being sent to you by [system].

State Water System ID#: \_\_\_\_\_. Date distributed: \_\_\_\_\_.

### APPENDIX 3. COMPLIANCE CERTIFICATION

**Citation Number 02\_17\_18C\_008**

**BFI- The Recyclery**

**System Number: 4300964**

*As required by Section 116450 of the California Health and Safety Code, I notified the users of the water supplied by the BFI- The Recyclery, of the failure to comply with the source monitoring requirements during the 2017 compliance period.*

*I complied with the directives of this citation as indicated below:*

Required Action

Date Completed

1. *Public notification*

a. *Mail and/or direct delivery to all employees* \_\_\_\_\_

b. *Posting in conspicuous places* \_\_\_\_\_

\_\_\_\_\_  
*Signature of Water System Representative*

\_\_\_\_\_  
*Date*

**THIS FORM MUST BE COMPLETED AND RETURNED TO THE DEPARTMENT. A COPY OF THE DELIVERED OR MAILED NOTICE MUST BE ATTACHED TO THIS FORM**

**Disclosure:** *Be advised that Section 116725 and 116730 of the California Health and Safety Code states that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the attached citation may be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each separate violation for each day that violation continues. In addition, the violators may be prosecuted in criminal court and upon conviction, be punished by a fine of not more than \$25,000 for each day of violation, or be imprisoned in county jail not to exceed one year, or by both the fine and imprisonment.*